

E-Filed 1/30/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

MONICA RODRIGUEZ,

Plaintiff,

v.

AREVA T&D, INC.,

Defendant.

Case Number C 05-02032 JF

ORDER¹ GRANTING MOTION OF
PLAINTIFF'S COUNSEL TO
WITHDRAW AS COUNSEL OF
RECORD

[Docket No. 15]

On April 5, 2005, Plaintiff Monica Rodriguez ("Rodriguez") filed the instant action against Defendant Areva T&D, Inc. in Santa Clara Superior Court. Rodriguez alleges claims for pregnancy discrimination, wrongful termination in violation of public policy, and violation of California Government Code § 12945.2. On May 18, 2005, Areva removed the instant action to federal court.

On December 15, 2005, Plaintiff's counsel, Robert David Baker ("Baker"), filed a motion to withdraw as counsel of record on the ground that he has been unable to contact Rodriguez. In his declaration, Baker states, "Beginning in October 2005 and culminating on November 4, 2005,

¹ This disposition is not designated for publication and may not be cited.


1 Plaintiff has failed to keep appointments necessary to proceed with her case, including a
2 deposition scheduled for December 8, 2005.” Baker Decl. ¶ 4. Baker “left several messages,”
3 and on November 10, 2005, “mailed a letter to Plaintiff, wherein [he] stated that as a result of the
4 failure to communicate with [his] office, [he] would be withdrawing as her attorney of record and
5 advised her to seek other counsel if she wished to pursue this matter.” *Id.* Baker has not
6 received any response to this letter, nor has the letter been returned. *Id.* On November 10, 2005,
7 Baker sent a letter to Defendant’s counsel advising of his intent to move to withdraw as her
8 counsel of record. Neither Defendant nor Rodriguez has submitted opposition to Baker’s
9 motion.

10 Counsel shall not withdraw from an action until relieved by order of the Court after
11 reasonable advance written notice has been given to the client and to all other parties who have
12 appeared in the case. Civil L.R. 11-5 (a). In the Northern District of California, the conduct of
13 counsel is governed by the standards of professional conduct required of members of the State
14 Bar of California, including the Rules of Professional Conduct of the State Bar of California.
15 *Elan Transdermal Limited v. Cygnus Therapeutic Systems*, 809 F. Supp. 1383, 1387 (N.D. Cal.
16 1992). Under those standards, an attorney may request permission to withdraw in matters where
17 the client’s conduct renders it unreasonably difficult for the attorney to represent the client
18 effectively. Cal. Rules of Professional Conduct Rule 3-700(C)(1)(d). Baker has notified
19 Rodriguez and opposing counsel, and Rodriguez’s failure to respond to Baker’s telephone
20 messages and letter have made it unreasonably difficult for Baker to represent Rodriguez.
21 Accordingly, this Court will grant Baker’s motion to withdraw as counsel of record for
22 Rodriguez.

23 When withdrawal by an attorney is not accompanied by simultaneous appearance of
24 substitute counsel or agreement of the party to appear *pro se*, leave to withdraw may be subject to
25 the condition that papers may continue to be served on counsel for forwarding purposes, unless
26 and until the client appears by other counsel or *pro se*. Civil L.R. 11-5(b). Accordingly, the
27 Court will continue to serve papers on Baker until Rodriguez appears by other counsel or *pro se*,
28 or until the case is terminated.

1 DATED: January 30, 2006

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


JEREMY FOGEL
United States District Judge

1 This Order has been served upon the following persons:

2 Robert David Baker attyatlaw@earthlink.net

3 Lisa Hamasaki lhamasaki@reedsmith.com

4 Douglas H. Riegelhuth Driegelhuth@reedsmith.com,

5 Catherine S. Ryan
6 Reed Smith LLP
7 435 Sixth Avenue
8 Pittsburgh, PA 15219

9 Monica Rodriguez
10 3343 Mount Logan Drive
11 San Jose, CA 95127
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28